

REMARKS

This Amendment is in response to the final Office Action dated April 14, 2005. Claims 41-50, 52-57 and 59-61 are pending in this case. Previously, claims 1-40, 51 and 58 were withdrawn from further consideration as being drawn to a non-elected species. The Examiner has indicated that claims 54 and 55 have not been analyzed further because they depend from a withdrawn claim. Accordingly, Applications have withdrawn these claims as being directed to a non-elected species. Applicants respectfully request reconsideration of all of the pending claims.

Claims 41-50, 52-53, 56-57 and 59-61 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,277,139 to Levinson et al. ("the Levinson patent"). The Examiner relies on the embodiments shown in FIGS. 1 and 8A and 8B of the Levinson patent in formulating the anticipation rejection. The Examiner has stated that the Levinson device shows proximal struts and distal struts attached to a circumferential member 6. The Examiner has interpreted the frustoconical frame structure 6 which forms part of the expandable frame 20 in the Levinson patent as constituting the circumferential member recited in the pending claims. However, the struts that the Examiner has identified as distal struts, namely components 25 and 27, are not distal to the frustoconical frame structure 6 at all. Rather, these so called distal struts 25 and 27 are located on the same proximal side as the struts which the Examiner has identified as proximal struts, namely components 21 and 23 shown in Figs. 1 and 8A. These struts 25 and 27 are not distal struts, but rather, at best constitute proximal struts. Therefore, the Levinson patent fails to disclose the basic structure recited in all of the pending claims.

Applicants respectfully point out to the Examiner that although the set of struts 21 and 23 and the set of struts 25 and 27 are located on opposite sides of the guide wire, this lateral positioning does not constitute a distal and proximal orientation. The correct orientation for determining the proximal or distal location is along the longitudinal axis defined by the guide wire, not lateral positions to the guide wire. Using this correct

orientation, it is apparent from Figs 1, 8A and 8B that there are no distal struts attached to the frustoconical frame structure 6 in the Levinson patent. For at least this reason alone, the Examiner should withdraw the Levinson patent as an anticipatory reference.

Applicants note that claims 47-50, 52, 53, 56, 57 and 59-61 recite both a proximal and a distal circumferential member. The Examiner has only identified a single component which he believes constitutes a circumferential member. Accordingly, the Examiner has failed to properly identify the basic structure recited in these particular claims. For at least this reason alone, the above-identified claims would be patentably distinct from the device shown in the Levinson patent.

Applicants still strongly disagree with the Examiner's position that the Levinson patent discloses a circumferential member. All of the currently pending claims include the recitation of at least one circumferential member. Applicants submit that the frustoconical frame structure 6 does not constitute a circumferential member in accordance with the presently claimed invention. Applicants respectfully direct the Examiner to pages 7-9 and 13-15 of Applicants' specification which describe the advantages of using a circumferential member having bending regions. Accordingly, Applicants respectfully request the Examiner to withdraw the Levinson patent as an anticipatory reference as to all pending claims.

Applicants believe that all pending independent claims are allowable. As such, all claims which depend from these independent claims and that were withdrawn from further prosecution in view of the previous election of species requirement also would be in a condition for allowance. Applicants respectfully request allowance of these withdrawn dependent claims as well.

In view of the foregoing, it is respectively urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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